

## CHAPTER 2

### PROGRAM OPERATORS

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**Introduction** This chapter discusses the use of contractors, subrecipients and other governmental entities to carry out your CDBG activities, such as programs or multiple projects, and to administer your grant. This chapter may not apply to you if you are administering your grant directly and your activity is limited to direct assistance for a project. If you have questions about this chapter's applicability to your situation, please contact your CDBG or EDBG Representative.

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**Grantee Responsibilities** Grantees are ultimately responsible for managing/implementing the funded CDBG activities, even if they hire program operators to assist or manage day-to-day operations.

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### Who Will Administer or Implement Activities?

**Grantee Chooses Who Administers or Implements** Grantees must make choices about who will administer and implement CDBG-funded activities. Options include:

- Grantee Staff -- does Grantee have, or can it obtain, the staff capacity?
- Contractors
- Subrecipients
- Other Governmental Entities (OGEs)
- Some combination of the above

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**Factors in Choosing Who Will Manage or Implement** Factors which tend to affect the degree to which grantee staff are relied upon more heavily for all CDBG functions include:

- Size of the community and of the CDBG grant amount
- Types of programs undertaken
- Local politics
- Capacity of in-house staff; and
- Capacity and availability of potential program operators

Based upon the Grantee's analysis of staffing capacities and upon programmatic needs, the Grantee must determine whether and/or to what extent it will work with contractors, subrecipients, and other governmental entities.

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# USING CONTRACTORS

<b>Contractors Defined</b>	<p>Contractors are program operators who are procured competitively. For-profit entities are competitively procured and considered to be contractors. Under limited circumstances, private for-profits may be selected as subrecipients for certain activities. See “Subrecipients Defined” on next page. Typically, grantees use a contractor when:</p> <ul style="list-style-type: none"><li>• The project is a discrete activity and does not involve program management or administration;</li><li>• There will be a specific activity under contract with a clearly defined beginning and end date;</li><li>• The specific activity undertaken by a contractor may be a physical project (like a multi-family rehabilitation) or a social service activity (like running a day care center or a housing rehabilitation program.)</li></ul>
<b>Contractor Procurement</b>	<p>Contractors must be procured competitively (See Chapter 8) according to Federal Office of Management and Budget (OMB) rules.</p>
<b>Agreements With Contractors</b>	<p>Grantees must enter into agreements with contractors. In order to meet HUD and State CDBG Program requirements, agreements with contractors must address the following:</p> <ul style="list-style-type: none"><li>• Scope of services to be provided, consistent with the State contract</li><li>• Identification of intended beneficiaries, if applicable</li><li>• Schedule for work completion</li><li>• Budget and payment schedule</li><li>• Provisions for termination for non or poor performance</li><li>• Other provisions required regarding:<ul style="list-style-type: none"><li>• Equal opportunity (see Contract Att. B.7; GMM, Chapter 4)</li><li>• Nondiscrimination (see Contract Att. A.2; GMM, Chapter 4)</li><li>• Labor standards (see Contract Att. B.9; GMM, Chapter 5)</li><li>• Anti-lobbying (see Contract Att. B.1)</li><li>• Conflict of interest (see Contract Att. B.5)</li></ul></li><li>• Provisions for maintenance of workers' compensation insurance (see Contract Paragraph 18 (b) (3))</li><li>• Provisions for maintenance of unemployment disability and liability insurance, as required (see Contract Paragraph. 18(b)(4))</li><li>• Provisions for records retention (min. <u>4 yrs. from submittal of final expenditure report or conclusion of any audit or litigation</u>) (Contract Paragraph 18(b)(5))</li><li>• Provision permitting monitoring/auditing (Contract Paragraph 18(b)(6))</li><li>• Provision that grantee will monitor for conformity with its State contract.</li></ul>
<b>Term of Contracts</b>	<p>The term of contracts cannot exceed three years according to federal procurement rules.</p>

# USING SUBRECIPIENTS

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## **Subrecipients Defined:**

A subrecipient is a public or private non-profit agency or organization receiving CDBG funds from a grantee or another subrecipient to undertake eligible activities. Another way to say this is that subrecipients (sometimes referred to as “subgrantees”) are organizations that are **provided** CDBG funds by a grantee **for their use** in carrying out agreed-upon, eligible activities. There are three basic kinds of subrecipients:

1. **Governmental non-profits (GNPs)** are public agencies, commissions, or authorities that are **independent** of the grantee government (for example, a public housing authority, or a district water commission).
  2. **Private non-profits** are usually, but not always, corporations, associations, agencies, or religious organizations with nonprofit status under the Internal Revenue Code (Section 501(c)(3)), usually with a board of directors and an executive director in charge of daily administration. Examples of private non-profits include private social service agencies (such as job training, counseling, or day care providers), community development corporations, church-related housing development groups, and operators of homeless shelters. Community-Based Development Organizations (CBDOs) are not considered subrecipients unless the grantee specifically designates these organizations as such.
  3. **Private For-profits.** A limited number of private for-profits can qualify as subrecipients under Section 570.204, to carry out special activities such as economic development or housing new construction, provided that the purpose, function, and scope of those activities meet all of the requirements of that section. Essentially, these for-profit subrecipients are limited to Small Business Investment Companies (SBICs) organized pursuant to Section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)).
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**When to Use  
Subrecipients**

Subrecipients commonly operate programs such as public services, housing rehabilitation, public works, and community facilities. These programs may be funded by specific grant agreements with HCD, program income, or both.

Certain circumstances may require the use of a subrecipient, for example:

- If a non-profit organization desiring to operate a program offers to contribute funds to a proposed program, this would be a conflict of interest under a competitive procurement. To avoid this conflict, the jurisdiction must select this non-profit as a subrecipient.
- If the jurisdiction decided not to competitively procure its program operator, then it could either select the organization to be its subrecipient (must meet subrecipient definition), or choose to operate the program itself.

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**How Do  
Subrecipients  
Differ From  
The Grantee's  
Own  
Employees?**

A grantee's "employees" refer to persons working for the unit of general local government that receives the CDBG funds directly from the State. For a city or county participating in the State CDBG Program, this would mean all employees of that City or County, so that even if the components of the local CDBG program were "farmed out" to many different city or county departments, the State CDBG Program considers all these departments and their staff to be "employees" of the grantee. However, if the city or county chooses to run its CDBG housing rehabilitation program through its independent redevelopment agency, for purposes of the CDBG program, the redevelopment agency would be considered a subrecipient.

Neither procurement contracts nor Subrecipient Agreements are required when CDBG activities are carried out by various departments or other organizational units **within** the grantee government itself. However, inter-agency or inter-departmental agreements are strongly encouraged as a mechanism for managing CDBG funds.

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**How Do  
Subrecipients  
Differ From  
Contractors?**

A contractor can be either a for-profit or a non-profit entity that is **paid** CDBG funds by the grantee (or subrecipient) in return for specific services, where payment is made to the contractor as **compensation**. While a subrecipient can be **designated** by the grantee, contractors must be selected through a **competitive procurement process**. However, other than rules relating to bonding, insurance, prevailing wages and other provisions, most of the standard federal administrative and monitoring requirements (described in 24 CFR Part 85 and OMB Circular A-110) do **not** apply to contractors, once the procurement process is complete. These OMB circulars and regulations must be followed by all subrecipients.

Under most circumstances, the distinction between a contractor and a subrecipient is clear. A development firm hired to build a new senior center is a contractor. A community development corporation running senior service programs is a subrecipient. However, there can be some tricky cases. For example, if a nonprofit day care provider is **hired** by a grantee (after a procurement process) to provide day care services to a lower income neighborhood, the nonprofit is a **contractor** in this instance, even though the grantee could have chosen to designate the nonprofit as a subrecipient to carry out the very same activity. The difference lies in the procurement process and in the administrative and monitoring requirements for subrecipients.

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## Selecting Subrecipients

Grantees should have procedures for assessing subrecipient organizations. Factors that should be considered in selecting an entity to administer a CDBG-funded activity include:

- **The proposed plan for carrying out the activity or activities:**
    - Have all the tasks been identified?
    - Has a realistic schedule been developed?
    - Has an estimate of necessary resources been compiled into a realistic budget?
    - Is the budget separate from other activities carried out by the organization?
  - **The organization's capacity to do the work:**
    - Has the organization performed the proposed activity before?
    - Does the organization have the experience with CDBG?
    - Does the organization have an appreciation for and realistic picture of the requirements and responsibilities associated with CDBG funds?
    - Is the organization familiar with the other federal requirements that must be adhered to?
    - What is the organization's track record?
    - Does the organization have adequate administrative and financial systems in place to deal with the program requirements?
    - Does the organization have qualified staff for all the functions and is there adequate staff time available for implementation and administration?
  - **The possibility of any potential conflicts of interest (does not relate to board members who do not have financial interests):**
    - Have any staff members, agents, officers or members of their families participated in or gained inside information on the CDBG award decision-making process?
    - Do any staff members, agents or members of their families stand to gain, financially or otherwise, from an award of CDBG funds to the organization?
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## Subrecipient Agreements

### Before Disbursing Funds

Before disbursing funds to any organization that is carrying out CDBG activities on behalf of the grantee, a written agreement must be executed. Such agreements must include the items listed below under "Required Contents of Subrecipient Agreements," and should also include the items listed under "Agreements With Contractors," which is found several pages further into this chapter.

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## Purposes of Subrecipient Agreements

Subrecipient agreements are a crucial element of CDBG program administration. Properly written and executed, written agreements can be used to serve three main purposes:

- To meet the minimum HUD requirements
  - To provide a tool for managing CDBG activities
  - To serve as a training tool
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## Required Contents of Subrecipient Agreements

The CDBG Regulations stipulate that certain requirements be included in all written agreements with subrecipients. At a minimum, subrecipient agreements must include the following provisions:

- **Statement of work** - A description of the work to be provided, including:
  - Schedule and Budget;
  - The purpose and nature of the services to be provided, including where they will be offered
  - The specific tasks to be performed (e.g., job training services, application intake for rehab loans);
  - The specific quantifiable level of service that will be provided for each activity (e.g., 25 job training participants each month, 15 rehab loan applications per month); and
  - The schedule for the performance of work with target levels of service indicated at specific points in time (such as the milestone dates found in your CDBG standard agreement)
- **Records and Reports** - The specific records which must be maintained and reporting requirements.
- **Program income** - Whether program income received is to be returned to the recipient or retained by the subrecipient. If the income will be retained, the specific activities for which the funds shall be undertaken. Also, subrecipients must reduce requests to the grantee for new CDBG funds by the amount of program income on hand.
- **Uniform administrative requirements** - Compliance with all applicable uniform administrative requirements, as described in §570.502
- **Other program requirements** - Compliance with all applicable “other federal” requirements (e.g., Davis-bacon, NEPA environmental review, flood insurance, procurement, relocation, etc.)
- **Conditions for religious organizations** - If applicable, the conditions governing the use of funds by religious organizations found in §570.200(j) and 570.503(b)(6).
- **Suspension and Termination** - Suspension or termination may occur if the subrecipient fails to comply with any term of the agreement, and that the agreement may be terminated for convenience.
- **Reversion of assets** - Upon expiration of the agreement, any CDBG funds on hand as well as any accounts receivable attributable to the CDBG funds must be transferred to the grantee. The agreement must also include the requirements covering the use of real property acquired with CDBG funds.
- **Other Required Provisions** - All additional contract requirements found in Chapter 12 - Monitoring, 1. General Compliance Checklist.

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<b>Term of Subrecipient Agreements</b>	Written agreements must remain in effect for the length of time that the subrecipient has control over any CDBG funds, including program income. However, it is good practice to update subrecipient agreements annually to ensure the agreements are current with regulations and requirements. This process also allows an opportunity to revisit and clarify problem areas or issues.
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## Training of Subrecipients

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<b>Introduction</b>	In order to avoid future problems with subrecipients, it is the responsibility of grantees to provide up front and ongoing training and technical assistance to subrecipients. There are three basic approaches, that together, focus on enhancing performance and reducing common problems among subrecipients. The next three sections describe these approaches.
<b>Orientation Sessions</b>	<ul style="list-style-type: none"><li>• Typically held at the beginning of a funding cycle, or prior to application to the State</li><li>• Provides a forum for discussing basic requirements and procedures, and to discuss expectations about performance</li></ul>
<b>Training</b>	<ul style="list-style-type: none"><li>• Training is typically aimed at larger audiences</li><li>• This type of workshop focuses on specific issues, and provides sufficient technical detail necessary for subrecipients to understand and implement program</li><li>• Training should be held throughout the year, and should enhance performance and long-term capacity of subrecipients</li></ul>
<b>Technical Assistance</b>	<ul style="list-style-type: none"><li>• Typically provided in a one-on-one or small group setting on site</li><li>• Technical assistance should be designed to correct a specific weakness, or to improve the quality or performance of a specific program or project already underway</li></ul>

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# Monitoring of Subrecipients

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## Grantee Monitoring of Subrecipient Performance

If CDBG funds are allocated to subrecipients to carry out activities, grantees are responsible for:

- Ensuring that subrecipients comply with all regulations and requirements governing their administrative, financial and programmatic operations
  - Ensuring that subrecipients achieve their performance objectives within schedule and budget and for taking appropriate actions when performance problems arise
  - Monitoring should not be a one-time event. To be an effective tool for avoiding problems and improving performance, monitoring must be an ongoing process of planning, implementation and follow-up
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## Steps in the Monitoring Process

- Develop a monitoring plan - Grantees should develop a monitoring plan at the beginning of each program year (or grant cycle) in order to match available resources with the needs and capacity of funded subrecipients.
- Standardize monitoring procedures - To ensure consistency and thoroughness in monitoring reviews, grantees should use standardized monitoring checklists or guidebooks. Monitoring procedures should also specify the steps to be followed for monitoring visits. You may want to refer to the State CDBG Program's monitoring checklists located in Chapter 12 of the Grant Management Manual
- Identify "risky" subrecipients - Grantees should perform a risk assessment to identify which subrecipients require comprehensive monitoring. High risk subrecipients might include:
  - subrecipients new to the CDBG program
  - subrecipients that have experienced turnover in key staff positions
  - subrecipients with past compliance or performance problems
  - subrecipients carrying out high risk activities such as acquisition, housing, and economic development
  - subrecipients undertaking multiple CDBG-funded activities for the first time.
- For experienced subrecipients that are successfully carrying out activities, grantees could plan a more narrowly focused monitoring that would examine areas where the regulations have changed, new activities being undertaken or aspects of the subrecipients' programs that led to problems in the past.

Note: Comprehensive monitoring reviews should be conducted periodically even for subrecipients with strong past performance. Even the most effective and efficient subrecipients can neglect their responsibilities if grantees do not hold them accountable.

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**Establish a Monitoring Schedule**

Once the risk assessment has been conducted, grantees should establish a schedule that identifies when subrecipients will be monitored by grantee staff. HCD requires Grantees to monitor sub recipients once per 30-month CDBG grant agreement, or if the work transcends specific grant agreements, once per year. Grantees should allow ample notice to subrecipients of planned monitoring visits.

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**Prepare for the Monitoring Visit**

Before beginning the monitoring visit, grantees should ensure that their staff are adequately trained for the task. Staff should be thoroughly familiar with the applicable program rules and the established monitoring protocol. In addition, staff persons assigned to monitor a particular subrecipient should review the following types of in-house data prior to the visit:

- the CDBG funding application
  - written agreement
  - progress reports
  - draw-down requests
  - correspondence
  - previous monitoring reviews
  - copies of audits
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## Conduct the Monitoring Visit

There are five basic steps to any monitoring visit:

1. **Notification Letter:** Grantees should begin the monitoring process by calling subrecipients to explain the purpose of the visit and to agree upon dates for the visit. A formal notification letter should follow at least several weeks before the planned visit and should include:
    - confirmation of the dates for the review
    - scope of the monitoring
    - information needed for review during the visit
    - staff persons needed for interviews or assistance during the review
  2. **Entrance Conference:** Entrance conferences are held at the beginning of monitoring visits, usually with the executive director or other top official of the organization, to make sure the subrecipient has a clear understanding of the purpose, scope and schedule for the monitoring.
  3. **Documentation and Data Gathering and Analysis:** Grantees should keep a clear record of information reviewed and conversations held with subrecipient staff during the monitoring visit. The most efficient and effective way to review all the necessary documentation and data is to utilize a checklist. The information reviewed and obtained will serve as the basis for conclusions drawn from the visit. Subrecipients may request that sources be identified if any of the conclusions are disputed.
  4. **Exit Conference:** At the end of the monitoring visit, the reviewers should meet again with key representatives of the subrecipient organization to:
    - present preliminary results of the monitoring
    - provide an opportunity for the subrecipient to correct any misconceptions or misunderstandings
    - secure additional information to clarify or support their position
    - if applicable, provide an opportunity for the subrecipient to report on steps the organization may already be taking to address areas of noncompliance or nonperformance.
  5. **Follow-up Letter:** At the end of the process, the grantee should provide the subrecipient with formal written notification of the results of the monitoring review. The purpose of this letter should not only be to point out problem areas, but also to recognize successes. In addition, the monitoring letter creates a permanent written record of what was found during the review. The letter should outline concerns and findings as well as deadlines for a written response and corrective actions. Standardized language set forth in the monitoring procedures often helps grantees to develop monitoring letters in a reasonable time frame and with consistency from subrecipient to subrecipient.
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<b>Follow-up to Ensure Problems are Addressed</b>	<p>Grantees are responsible for ensuring that subrecipients correct problems found as a result of monitoring. Effective follow-up procedures adhere to four basic principles:</p> <ol style="list-style-type: none"> <li>1. the accountability of subrecipients to the grantee</li> <li>2. the clarity and consistency of performance standards and corrective actions</li> <li>3. the continuous provision of feedback by the grantee to the subrecipient</li> <li>4. timely communications with subrecipients</li> </ol>
<b>Intervention and Sanctions</b>	<p>There are basically three increasingly serious stages grantees should utilize for addressing subrecipient problem areas:</p> <ul style="list-style-type: none"> <li>• <b>Stage 1 - Early Intervention:</b> <ul style="list-style-type: none"> <li>• Plan a strategy with the subrecipient that includes additional training or technical assistance;</li> <li>• Require more frequent or more thorough reporting by the subrecipient; or</li> <li>• Conduct more frequent monitoring reviews of the subrecipient</li> </ul> </li> <li>• <b>Stage 2 - Intervention for More Serious or Persistent Problems:</b> <ul style="list-style-type: none"> <li>• Restrict the sub recipient's payment requests;</li> <li>• Disallow subrecipient expenses (or require payment); or</li> <li>• Impose probationary status</li> </ul> </li> <li>• <b>Stage 3 - Sanctions:</b> <ul style="list-style-type: none"> <li>• Temporarily suspend the subrecipient;</li> <li>• Do not renew the subrecipient the next program year;</li> <li>• Terminate the sub recipient's activity for the current program year; or</li> <li>• Initiate legal action</li> </ul> </li> </ul>

## USING OTHER GOVERNMENTAL ENTITIES (OGEs)

<b>OGEs Defined</b>	<p>A jurisdiction may choose to work with an OGE to operate a program. The term "OGE" means another jurisdiction (city or county). For example, a city agrees to use a county housing department to administer its CDBG housing rehabilitation program. The term "OGE" does <u>not</u> include independent governmental non-profits (GNPs), as defined earlier in this chapter under "Using Subrecipients".</p>
<b>Selecting OGEs</b>	<p>OGEs may be selected without following Federal procurement rules.</p>
<b>Agreements with OGEs</b>	<p>Grantees must enter into Memoranda Of Understanding (MOU) or Joint Powers Agreements (JPA) with selected OGEs. Such agreements should meet the same requirements as an agreement with a subrecipient (i.e., the applicable provisions set forth in 570.503). The CDBG Grantee remains responsible for adherence to program requirements.</p>

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**References**

- A Guidebook for Grantees on Subrecipient Oversight (HUD, 1993)
- Basically CDBG (Handbook) sponsored by HUD, training presented by ICF Kaiser Inc., March 1998)
- CFR 570.204(c) Special activities by Community Based Development Organizations (CBDOs), Eligible CBDOs.
- CFR 570.501(b) Responsibility for Grant Administration
- CFR 570.502 Applicability of Uniform Administrative Requirements
- CFR 570.503 Agreements with Subrecipients
- Also see Chapter 12, Monitoring, General Compliance Checklist for list of provisions required to be in contracts

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**Supporting Materials**

- Subrecipient Agreement Checklist
- Sample Subrecipient Agreement (non-governmental subrecipient)

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**Acknowledgments**

Parts of this chapter have been excerpted from, Basically CDBG, February 1998, used by permission from ICF Kaiser Incorporated, and A Guidebook for Grantees on Subrecipient Oversight, Managing CDBG, August 1993, U.S. Department of Housing and Urban Development.

## SUBRECIPIENT AGREEMENT CHECKLIST

Jurisdiction: \_\_\_\_\_

Subrecipient: \_\_\_\_\_

Agreement Date: \_\_\_\_\_

The CDBG regulations stipulate that certain requirements be included in all written agreements with subrecipients. At a minimum, subrecipient agreements must include the following provisions:			
<b>Statement of Work:</b> A description of the work to be provided, including a schedule and budget. Recommended provisions include:	YES	NO	(IF NO, PLEASE EXPLAIN)
The purpose and nature of the services to be provided, including where they will be offered;			
The specific tasks to be performed (e.g., job training services, application intake for rehab loans);			
The specific quantifiable level of service that will be provided for each activity (e.g., 25 job training participants each month, 15 rehab loan applications per month); and			
The schedule for the performance of work with target levels of service indicated at specific points in time.			
<b>Records and Reports</b> - the specific records which must be maintained and reporting requirements.			
<b>Program Income</b> - whether program income received is to be returned to the recipient or retained by the subrecipient. If the income will be retained, the specific activities for which the funds shall be undertaken. Also, subrecipients must reduce requests for new CDBG funds by the amount of program income on hand.			
<b>Uniform Administrative Requirements</b> - compliance with all applicable uniform administrative requirements under 24 CFR § 570.502 and 24 CFR § Part 84, and/or Part 85, as applicable.			
<b>Other Program Requirements</b> - compliance with all applicable "other federal" requirements (e.g., Davis-Bacon, Flood Insurance, etc.).			
<b>Conditions for Religious Organizations</b> - If applicable, the conditions governing the use of funds by religious organizations.			
<b>Suspension and Termination</b> - Suspension or termination may occur if the subrecipient fails to comply with any term of the agreement, and that the agreement may be terminated for convenience.			
<b>Reversion of Assets</b> - Upon expiration of the agreement, any CDBG funds on hand as well as any accounts receivable attributable to CDBG funds must be transferred to the grantee. The agreement must also include the requirements covering the use of real property acquired with CDBG funds.			
<b>Other Required Provisions</b> - All additional contract requirements found in Chapter 12 - Monitoring, 1. General Compliance Checklist.			

## SUBRECIPIENT AGREEMENT

(Adapted from Agreement used by Minneapolis Community Development Office)  
**SAMPLE FORM ONLY, NOT TO BE USED AS A LEGAL CONTRACT**

**AGREEMENT BETWEEN [Grantee]  
AND  
[Non-Governmental Subrecipient]  
FOR  
[NAME OF CDBG PROGRAM]**

THIS AGREEMENT, entered this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between the \_\_\_\_\_  
(herein called the “Grantee”) and \_\_\_\_\_ (herein called the “Subrecipient”).

WHEREAS, the Grantee has applied for and received funds from the State of California Department of Housing and Community Development, State Community Development Block Grant Program (the “Department”) originating from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383; and

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

### **I. SCOPE OF SERVICE**

#### **A. Activities**

The Subrecipient will be responsible for administering a CDBG Year [\_\_\_\_\_] [Name of Program] in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant Program:

#### **Program Delivery**

Activity #1      *[Complete description of activity to be undertaken including what products or services are to be performed, where they are to be provided, for whom they are to be provided, how they are to be provided]*

Activity #2      *[Same description as above]*

Activity #3      *[Same description as above]*

#### **General Administration**

*[Add description of general administrative services to be performed in support of activities noted above]*

#### **B. National Objectives**

The Subrecipient certifies that the activities carried out with funds provided under this Agreement will meet one or more of the CDBG program’s National Objectives - 1) benefit low/moderate

income persons, 2) aid in the prevention or elimination of slums or blight, 3) meet community development needs having a particular urgency - as defined in 24 CFR Part 570.208.

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Subrecipient agrees to provide the following levels of program services:

<u>Activity</u>	<u>Units per Month*</u>	<u>Total Units/Year</u>
Activity #1	<i>[# of Units]</i>	<i>[# of Units]</i>
Activity #2	<i>[# of Units]</i>	<i>[# of Units]</i>

[Add other activities as necessary]

*\*[Note: Provide definition of Units of Service here.]*

D. Staffing

*[Provide list of staff and time commitments to be allocated to each activity specified in I.A. above].*

E. Performance Monitoring

The Grantee will monitor the performance of the Subrecipient against goals and performance standards required herein. Substandard performance as determined by the Grantee will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

II. TIME OF PERFORMANCE

Services of the Subrecipient shall start on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ and end on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. The term of this Agreement and the provisions herein shall be extended to cover any additional time period during which the Subrecipient remains in control of CDBG funds or other assets, including program income.

III. BUDGET

<u>Line Item:</u>	<u>Amount:</u>
Salaries	\$_____
Fringe	_____
Office Space (Program only)	_____
Utilities	_____
Communications	_____
Reproduction/Printing	_____
Supplies and Materials	_____
Mileage	_____
Audit	_____
Other (Specify)	_____



Indirect Costs (Specify) \_\_\_\_\_

TOTAL \$\_\_\_\_\_

Any indirect costs charged must be consistent with the conditions of Paragraph VIII (C) (2) of this Agreement. In addition, the Grantee may require a more detailed budget breakdown than the one contained herein, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the Grantee. Any amendments to this budget must be approved in writing by the Grantee and the Subrecipient.

IV. PAYMENT

It is expressly agreed and understood that the total to be paid by the Grantee under this contract shall not exceed \$\_\_\_\_\_. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in Paragraph III herein and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in Paragraph III and in accordance with performance.

Payments may be contingent upon certification of the Sub recipient's financial management system in accordance with the standards specified in OMB Circular A-110, Attachment F.

V. NOTICES

Communication and details concerning this contract shall be directed to the following contract representatives:

<u>Grantee</u>	<u>Subrecipient</u>
_____, Manager	_____, Exec. Director
<u>Grantee</u>	<u>Subrecipient</u>
<u>[Address]</u>	<u>[Address]</u>
<u>[City, State, ZIP]</u>	<u>[City, State, ZIP]</u>
<u>Telephone</u>	<u>Telephone</u>
<u>[Fax Number]</u>	<u>[Fax Number]</u>

VI. SPECIAL CONDITIONS

*[This section of the Agreement can be used by Grantee to include special conditions specific to the particular activity or individual subrecipient.]*

VII. GENERAL CONDITIONS

A. General Compliance

The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. “Independent Contractor”

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an “independent contractor” with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers’ Compensation Insurance as the Subrecipient is an independent subrecipient.

C. Hold Harmless

The Subrecipient shall hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient’s performance or nonperformance of the services or subject matter called for in this Agreement.

D. Workers’ Compensation

The Subrecipient shall provide Workers’ Compensation Insurance coverage for all of its employees involved in the performance of this contract.

E. Insurance & Bonding

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee.

The Subrecipient shall comply with the bonding and insurance requirements of Attachment B of OMB Circular A-110, Bonding and Insurance.

F. Grantor Recognition

The Subrecipient shall insure recognition of the role of the grantor agency in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

G. Amendments

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by the Grantee’s governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

#### H. Suspension or Termination

Either party may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial termination of the Scope of Service in Paragraph 1.A above may only be undertaken with the prior approval of the Grantee. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under this Agreement shall, at the option of the Grantee, become the property of the Grantee, and the Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The Grantee may also suspend or terminate this Agreement, in whole or in part, if the Subrecipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the Grantee may declare the Subrecipient ineligible for any further participation in the Grantee's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is in noncompliance with any applicable rules or regulations, the Grantee may withhold up to fifteen (15) percent of said contract funds until such time as the Subrecipient is found to be in compliance by the Grantee, or is otherwise adjudicated to be in compliance.

### VIII. ADMINISTRATIVE REQUIREMENTS

#### A. Financial Management

##### 1. Accounting Standards

The Subrecipient agrees to comply with Attachment F of OMB Circular A-110 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

##### 2. Cost Principles

The Subrecipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

*[NOTE: For the above sections, if the Subrecipient is a governmental or quasi-governmental agency, the applicable sections of 24 CFR Part 85, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and OMB Circular A-87 would apply.]*

#### B. Documentation and Record-Keeping

##### 1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506, that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- f. Financial records as required by 24 CFR Part 570.502, and OMB Circular A-110; and
- g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

## 2. Retention

The Subrecipient shall retain all records pertinent to expenditures incurred under this contract for a period of four (4) years from the date the final expenditure report is submitted by the Grantee to the Department under the standard agreement. Records for non-expendable property acquired with funds under this contract shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

## 3. Client Data

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

## 4. Disclosure

The Subrecipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the *[insert applicable State or Federal law]* unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

## 5. Property Records

The Subrecipient shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions specified in 24 CFR Parts 570.503(b)(8), as applicable.

6. Close-Outs

The Subrecipient's obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records.

7. Audits & Inspections

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the Grantee or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning subrecipient audits and, as applicable, OMB Circular A-133.

C. Reporting and Payment Procedures

1. Program Income

The Subrecipient shall report [insert frequency of reports, e.g., "monthly"] all program income as defined at 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this contract. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the Subrecipient may use such income during the contract period for activities permitted under this contract and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unused program income shall be returned to the Grantee at the end of the contract period. Any interest earned on cash advances from the U.S. Treasury is not program income and shall be remitted promptly to the Grantee.

2. Indirect Costs

If indirect costs are charged, the Subrecipient will develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay to the Subrecipient funds available under this contract based upon information submitted by the Subrecipient and consistent with any approved budget and Grantee policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with advance fund and program income balances available in Subrecipient accounts. In

addition, the Grantee reserves the right to liquidate funds available under this contract for costs incurred by the Grantee on behalf of the Subrecipient.

4. Payment Procedures

The Subrecipient shall submit regular Progress Reports to the Grantee in the form, content, and frequency as required by the Grantee.

D. Procurement

1. Compliance

The Subrecipient shall comply with current Grantee policy concerning the purchase of equipment and shall maintain inventory records of all non-expandable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this contract.

2. OMB Standards

The Subrecipient shall procure all materials, property, or services in accordance with the requirements of Attachment O of OMB Circular A-110, Procurement Standards, and shall subsequently follow Attachment N, Property Management Standards as modified by 24 CFR 570.502(b)(6), covering utilization and disposal of property.

3. Travel

The subrecipient shall obtain written approval from the Grantee for any travel outside the metropolitan area with funds provided under this contract.

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING ELEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in §570.606(d) governing optional relocation policies. [The Grantee may preempt the optional policies.] The Subrecipient shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Subrecipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Subrecipient agrees to comply with [fill in local and state civil rights ordinances here] and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 50 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

2. Nondiscrimination

The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program. The Grantee shall provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

B. Affirmative Action

1. Approved Plan

The Subrecipient agrees that it shall be committed to carry out pursuant to the Grantee's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. The Grantee shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program. The Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the award of funds.

2. W/MBE

The Subrecipient will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.



4. Notifications

The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO/AA Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Subrecipient will include the provisions of Paragraphs X A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

2. Labor Standards

The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 USC 327 and 40 USC 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CDR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journeyworkers; provided, that if wage rates higher than those required under the

regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. “Section 3” Clause

a. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the Grantee, the Subrecipient and any of the Subrecipient’s subrecipients and subcontractors. Failure to fulfill these requirements shall subject the Grantee, the Subrecipient and any of the Subrecipient’s subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Subrecipient further agrees to comply with these “Section 3” requirements and to include the following language in all subcontracts executed under this Agreement:

“The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C.1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low-and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located.”

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service

area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Subrecipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

b. Notifications

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Subrecipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The Subrecipient shall not assign or transfer any interest in this contract without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Subrecipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

2. Subcontractors

a. Approvals

The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Subrecipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Subrecipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this agreement no person having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or subrecipients that are receiving funds under the State CDBG program.

5. Lobbying

The Subrecipient hereby certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and
- d. Lobbying Certification - Paragraph d

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

The Subrecipient agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200(j)

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this contract:

- Clean Air Act, 42 U.S.C., 7401, et seq.
- Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and advisability and availability of blood level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken.

D. Historic Preservation

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this contract.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the reminder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

[Grantee]

[Subrecipient]

By: \_\_\_\_\_  
Chief Elected Official or  
Executive Officer

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest: \_\_\_\_\_  
ASSISTANT [CITY/COUNTY] CLERK

Countersigned: \_\_\_\_\_  
FINANCE OFFICER

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY**

\_\_\_\_\_  
ASSISTANT [CITY/COUNTY] ATTORNEY

Fed. I.D.# \_\_\_\_\_

**AFFIRMATIVE ACTION  
APPROVAL**

\_\_\_\_\_  
CONTRACT COMPLIANCE  
SUPERVISOR

## **Example #1: Sample Scope of Services for PUBLIC SERVICES Activities**

*This is an example of a Scope of Services for a non-profit subrecipient that is providing center-based day care services (per 24 CFR 570.201(e)) for children aged 14 months to 5 years. The public service is structured as a limited clientele activity that will principally benefit low- and moderate-income persons.*

*Please keep in mind that the following example is only one of the ways of structuring a Scope of Services and Method of Compensation for a public services provider being assisted through the CDBG program. In this example, the CDBG assistance comes in the form of a subsidy paid to the provider on behalf of the children from low- and moderate-income families enrolled in the day care. However, the option is also available to assist the day care center provider's overall operations with CDBG funds, which could also meet the National Objective of principal benefit to low- and moderate-income persons as long as a majority of the children served by the center are from low- and moderate-income families.*

### **I. SCOPE OF SERVICES**

#### **A. Principal Tasks**

The Subrecipient will be responsible for providing day care and related services to eligible children over the period of \_\_\_\_\_ to \_\_\_\_\_. With funding from the Year \_\_\_\_ CDBG program of the [name of Grantee], the Subrecipient will make available the equivalent of 10-full-time day care slots during this period. The day care services will be provided at the Subrecipient's main day care center at [address of facility]. The Subrecipient will administer all tasks in the provision of the aforementioned public services in compliance with all applicable Federal, state, and local rules and regulations governing these funds, and in a manner satisfactory to the Grantee.

Changes in the scope of services, budget, or method of compensation contained in this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Subrecipient and Grantee.

The major tasks which the Subrecipient will perform in connection with the provision of the eligible day care services include, but are not limited to, the following:

- 1) Maintain facilities at all times in conformance with all applicable codes, licensing, and other requirements for the operation of a day care center. This will include all requirements for lead-based paint testing and abatement, as necessary. The facilities must also be handicapped accessible, and organized into separate areas appropriate for each of the age groupings being served (toddler – 14 months to 2.5 years, preschool – 2.5 to 4 years, and pre-kindergarten – 4 to 5 years).



- 2) Conduct outreach through flyers, public service announcements, networking with local agencies, scheduling of open houses and other means to inform the low- and moderate-income community of the availability of the fully-subsidized day care slots available, and to ensure sufficient demand to maintain enrollment. All descriptions of the program will emphasize that the center is handicapped-accessible. **[Depending on the demographics of the community, a grantee may want to specify that outreach materials be produced in Spanish, French, Cambodian, etc.]**
- 3) Accept applications and perform eligibility determinations. Only children aged 14 months to 5 years from families in [name of town/city/county] with incomes which meet the low/moderate income guidelines of the CDBG program will be eligible for enrollment in the subsidized day care slots.
- 4) Offer day care services from 8:00 a.m. to 6:00 p.m. Monday through Friday to approved eligible families. Families should be provided the option of enrolling their children in either part-time or full-time day care slots, provided that children from eligible low/moderate income families occupy 10 of the 40 “full-time equivalent” slots available at the day care center. **[If services are not provided on holidays, they should be specified in the scope.]**

